

CHAPTER 36-21.1

HUMANE TREATMENT OF ANIMALS

36-21.1-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Abandoned animal" means an animal that is or reasonably appears to have been deserted by its owner or keeper. The term may include an animal that is running loose on property other than that of its owner or the owner's agent if the animal bears no identification indicating the owner or the owner's agent and the owner or owner's agent is not known to the sheriff, police officer, licensed veterinarian, or investigator taking custody of the animal under this chapter.
2. "Animal" includes every living animal except the human race.
3. "Commissioner" means the agriculture commissioner.
4. "Cruelty" or "torture" includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted.
5. "Investigator" means any person approved by the board to determine whether there has been a violation of this chapter.

36-21.1-02. Overworking, mistreating, or abandoning animals.

1. No person may overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.
2. No person may deprive any animal over which the person has charge or control of necessary food, water, or shelter.
3. No person may keep any animal in any enclosure without exercise and wholesome change of air.
4. No person may abandon any animal.
5. A person shall reclaim an animal within forty-eight hours of the agreed-upon time for termination of a boarding contract and pay all charges for boarding the animal.
6. No person may allow any maimed, sick, infirm, or disabled animal of which the person is the owner, or of which the person has custody, to lie in any street, road, or other public place for more than three hours after notice.
7. No person may willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.
8. No person may cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements, and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. This subsection does not apply to the North Dakota state fair association, to agricultural fair associations, to any agricultural display of caged animals by any political subdivision, or to district, regional, or national educational livestock or poultry exhibitions. Zoos which have been approved by the health district or the governing body of the political subdivision which has jurisdiction over the zoos are exempt from this subsection.

36-21.1-03. Cruelty in transportation. No person may carry, or cause to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or

cages, or other proper carrying container, nor may a person carry an animal, or cause an animal to be carried, in any other cruel manner.

36-21.1-03.1. Unattended dog or cat in motor vehicle. No person may leave a dog or cat unattended in a stationary or parked motor vehicle in a manner that endangers the animal's health or safety. Any person who violates this section is guilty of an infraction.

36-21.1-04. Poisoning animals. No person may unjustifiably administer or expose any known poisonous substance or noxious drug, whether mixed with meat or other food or not, which may be eaten by any domestic animal.

36-21.1-05. Animal with infectious disease. No person owning or having charge of any animal, knowing the animal to have any infectious or contagious disease, or to have recently been exposed thereto, may knowingly permit such animal to run at large or come into contact with another animal, or with another person without the person's knowledge and permission.

36-21.1-06. Exposure of animals - Authority of officers.

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal unjustifiably exposed to cold or inclement weather or not properly fed and watered. Any sheriff or police officer may use reasonable means to enter a motor vehicle and remove an animal that has been left in the vehicle in violation of section 36-21.1-03.1.
2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until it is redeemed by the owner or authorized agent of the owner and when necessary may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.
3. If the owner or the owner's agent is known, the individual must be immediately notified. If the owner or the owner's agent is unknown, notice must be given by publication in the manner prescribed by law. The notice must inform the owner or the owner's agent that the animal may be sold, or otherwise disposed of, pursuant to court order if the animal is not redeemed within five days from the date of the notice.
4. The sheriff, police officer, licensed veterinarian, investigator, or whoever has custody of the animal has a lien on the animal and that lien is superior to any other claim or lien, for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after receipt of the notice, the person holding the claim may apply to the district court for an order to sell the animal and discharge the lien.
5. Upon order of the court, the animal may be sold at a public market to pay the charges for its keeping, and the title to the animal passes by the sale.
6. The court may award costs and reasonable attorney's fees to the person bringing the action to enforce the lien, arrange for the adoption of the animal, or arrange for the destruction and disposal of the animal if no market exists for the animal or if the animal is a companion animal.
7. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be paid over to the owner or the owner's agent, if known. If the owner or the owner's agent is not known, the remainder must be deposited in the county general fund. If no purchaser is found, the animal, at the discretion of the commissioner, may be offered for adoption or disposed of consistent with the law.

8. Before the animal is returned to its owner, the court shall determine whether the owner or the owner's agent can provide adequate care for the animal. The court has ten days within which to make this determination. The owner shall pay the cost of taking the animal into custody before the animal is released to the owner or the owner's agent.

36-21.1-07. Cockfights, dogfights, and other exhibitions prohibited - Penalties.

1. No person may engage in or be employed at cockfighting, dogfighting, bearbaiting, pitting one animal against another, or any other similar cruelty, such as bear fighting, kangaroo boxing, or similar activity, to animals; nor may a person receive money for the admission of any person to any place used, or about to be used, for any such purpose, nor may a person willfully permit anyone to enter or use, for any such purpose, premises of which that person is the owner, agent, or occupant; nor may a person use, train, or possess a dog or other animal for the purpose of maltreating any domestic animal. Any person who violates this subsection is guilty of a class C felony.
2. No person may knowingly purchase a ticket of admission to, be present at, or witness the activities prohibited by subsection 1. Any person who violates this subsection is guilty of a class A misdemeanor.

36-21.1-08. Artificially colored animals - Sale. No person may sell or offer for sale, raffle, offer, or give as a prize, premium, or advertising device, or display in any store, shop, carnival, or other public place, a chick, duckling, gosling, or rabbit which has been dyed or otherwise artificially colored.

36-21.1-09. Use of certain birds as advertising devices - Use of live beef or dairy cattle as raffle prizes - Gifts of animals.

1. No person may sell, offer for sale, raffle, offer, or give as a prize, premium, or use as an advertising device, chicks, ducklings, or goslings younger than four weeks of age in quantities of less than twelve birds to an individual person. Persons engaging in the business of selling chicks, ducklings, or goslings for agricultural or wildlife purposes are exempt from the provisions of this section, but only when selling for such purposes.
2. An eligible organization authorized to conduct games of chance under chapter 53-06.1 may raffle live beef or dairy cattle, bison, sheep, horses, and pigs, provided each raffle ticket contains a statement that the person who wins the animal may convert that prize to a cash prize. The animal to be raffled may be donated to or purchased by the organization. The donor or seller of the animal shall determine the market value of the animal. If the person who wins the animal desires a cash prize instead of the animal, the organization shall pay the player a cash prize that must equal the lesser of the market value of the animal or the maximum single cash prize amount allowed under section 53-06.1-10.1.
3. A person may not give away any live animal, other than those authorized under subsections 1 and 2, as:
 - a. A prize for, or as an inducement to enter any contest, game, or other competition;
 - b. An inducement to enter a place of amusement; or
 - c. An incentive to enter into any business agreement where the offer was for the purpose of attracting trade.

4. The provisions of subsection 3 do not apply to a person or organization that gives away an animal:
 - a. As a project for the promotion of the equine and livestock industry of North Dakota;
 - b. As a project for the promotion of conservation of animals and wildlife in North Dakota; or
 - c. Which is intended for slaughter.

36-21.1-10. Care of animals used as advertising devices. Every person who sells, offers for sale, raffles, offers, or gives as a prize, premium, or advertising device, chicks, ducklings, or goslings to the public, shall provide and operate brooders or other heating devices necessary to maintain the chicks, ducklings, or goslings in good health, and shall keep adequate food and water available to the birds at all times.

36-21.1-11. Penalty. Any person knowingly and willfully violating any rule adopted by the board or violating any provision of this chapter for which a specific penalty is not provided is guilty of a class A misdemeanor.

36-21.1-12. Duties of board and commissioner. The board shall adopt rules to effectuate this chapter. The board by rule may restrict the importation into the state, and restrict the sale or other distribution within the state, of all domestic animals or animals wild by nature which the board may have reason to believe may be a threat to the health and well-being of the human or animal population of the state, or both, unless the importation or sale is for bona fide scientific or educational purposes. The board shall establish reasonable qualifications for approved investigators and the commissioner shall maintain a current listing of all approved investigators. Employees of the commissioner may be assigned as investigators. The commissioner may by injunctive procedure without bond or other undertaking proceed against any person or persons for a continuous violation of any provision of this chapter. No liability may accrue to the board, the commissioner, or any authorized representative in proceeding against any person or persons pursuant to this section.

36-21.1-13. Abandoned animals - Assumption of custody.

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal found abandoned. The individual taking custody shall take reasonable steps to determine the ownership of the abandoned animal.
2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until the animal is redeemed by the owner or the owner's agent or may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.
3. Notice must be given by publication in the official newspaper of the jurisdiction. The notice must provide that the animal may be sold, placed for adoption, or otherwise disposed of if the animal is not redeemed within five days from the date of the notice.
4. The person having custody of the animal has a lien on the animal for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. The lien is superior to any other claim or lien. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after publication of the notice, the person holding the claim may sell the animal and discharge the lien.

5. The court may award reasonable attorney's fees to the person bringing the action to enforce the lien and may award costs, which include the costs of arranging for the adoption of the animal or the costs of the destruction and disposal of the animal.
6. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be deposited in the county general fund.

36-21.1-14. Assumption of custody - Immunity from liability. Any sheriff, police officer, licensed veterinarian, investigator, or person who has custody of an animal under this chapter and who is acting in an official or professional capacity and making a good-faith effort to comply with this chapter is immune from any civil or criminal liability for acts taken or omitted while attempting to comply with this chapter.

36-21.1-15. Applicability of chapter. This chapter does not apply to estrays covered under chapter 36-22.